

preserve their right to file a petition under 37 C.F.R. § 1.144 for review of the restriction requirement.

Tacit Admission of Separate and Distinct Inventions

The Office Action Summary asserts that “cancellation of those claims [5, 6, 7, 11, 15, and 18] in response to art which did not teach ‘machine specific registers’ is a tacit admission that applicants’ original claims were not directed to the alternative invention with ‘machine specific registers’.” The Applicants respectfully disagree.

First, the Applicants take this assertion by the Office as an explicit admission that none of the art referenced (U.S. Patent No. 5,274,829, Hotta et al.; WO 94/12929, Demers et al.; U.S. Patent No. 4,928,223, Dao et al.; and U.S. Patent No. 5,983,334, Coon et al.) teaches “machine specific registers.” Thus, the Applicants renew their request to have the rejections under § 102 reconsidered and withdrawn.

Second, there can be many reasons to cancel claims; it is improper for the Office to provide any particular reason for such activity on the part of the Applicants unless specifically stated by the Applicants in a communication with the Office. Considering that all claim rejections rendered by the Office in view of Hotta et al., Demers et al., Dao et al., and Coon et al. stand traversed by the Applicants, it is the position of the Applicants that cancelling claims 5, 6, 7, 11, 15, and 18 is not an admission of anything, tacit or otherwise, and should not be construed as such.

Non-Responsive Amendment

The Office Action Summary also asserts that the Response filed with the Office on October 15, 2002 by the Applicants was non-responsive, since it presented only claims drawn to a non-elected invention. For the reasons given above, the Applicants respectfully disagree, and maintain that the pending claims, especially including specifically elected and amended original claim 10, are not directed toward a separate and distinct invention from those embodiments addressed by claims 1-20 as originally filed.

CONCLUSION

The Applicants respectfully submit that claims 10 and 21-40 are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney, Mark Muller, at (210) 308-5677, or the undersigned, to facilitate prosecution of this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 26 day of November, 2002.

Jane Sagers
Name

Jane Sagers
Signature